

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	
BERNARD L. MADOFF INVESTMENT SECURITIES LLC,	Adv. Pro. No. 08-1789 (SMB)
Debtor.	SIPA LIQUIDATION  (Substantively Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	
Plaintiff,	
v.	
DEFENDANTS LISTED ON APPENDIX A ATTACHED HERETO,	Adv. Pro. Nos. listed on Appendix A Attached Hereto
Defendants.	

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANTS' MOTIONS TO DISMISS**

The Defendants listed on Appendix A attached hereto (collectively, “Defendants”) have filed motions to dismiss (the “Motions to Dismiss”) complaints filed against them by Plaintiff Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the substantively consolidated estate of Bernard L. Madoff (the “Complaints”).

On January 17, 2014 and March 10, 2014, the Trustee and the Securities Investor Protection Corporation (“SIPC”) filed separate memoranda of law opposing the Motions to

Dismiss (the “Opposition Briefs”). On or before March 17, 2014, certain Defendants filed reply briefs in further support of their respective Motions to Dismiss (the “Reply Briefs”).

On September 17, 2014, a hearing on the Motions to Dismiss was held by the Honorable Stuart M. Bernstein (the “Hearing”). Before and after the Hearing, various parties submitted supplemental authorities and other submissions to the Court. The Court, having reviewed the Motions to Dismiss, the Opposition Briefs, the Reply Briefs, the supplemental authorities and other submissions, and having heard the argument of counsel at the Hearing, granted in part and denied in part the Motions to Dismiss for reasons set forth in its Memorandum Decision Regarding Omnibus Motions to Dismiss (the “Decision”) entered June 2, 2015.

On June 22, 2015, the Supreme Court of the United States denied certiorari of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to those adversary proceedings identified on Appendix A attached hereto (the “Adversary Proceedings”).

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the Decision and the Supreme Court Decision, counts in each Complaint included on Appendix A, other than those seeking to avoid and recover initial transfers, and subsequent transfers to the extent asserted, pursuant to sections 548(a)(1)(A), 550, and 551 of the Bankruptcy Code, are hereby dismissed.

2. As to counts in each Complaint included on Appendix A in which the Trustee sought to avoid obligations pursuant to sections 548(a)(1) and 544 of the Bankruptcy Code, applicable provisions of SIPA including sections 78fff(b) and 78fff-1(b) and New York Debtor

and Creditor Law (the “Obligations Counts”), the Motions to Dismiss are granted with respect to the Obligations Counts and such counts are hereby dismissed.

3. In all other respects, the Motions to Dismiss are denied.

4. Defendants shall file their answers to the Complaints within 30 days of the entry of this Order. The Adversary Proceedings will move forward thereafter on schedules to be established by further order of the Court after consultation among the parties in accordance with the applicable rules of procedure.

5. This Court retains jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York

/s/ STUART M. BERNSTEIN

July 16<sup>th</sup>, 2015

HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

<b>APPENDIX A</b>			
	<b>Adv. Pro. No.</b>	<b>Defendant(s)</b>	<b>Counsel for Defendant(s)</b>
1.	10-04724	Picard v. P. Charles Gabriele	Milberg LLP
2.	10-04725	Picard v. Ruth E. Goldstein	Milberg LLP
3.	10-04582	Picard v. Gerald Blumenthal	Milberg LLP
4.	10-04921	Picard v. Stanley T. Miller	Dentons LLP
5.	10-04946	Picard v. Stephen R. Goldenberg	Milberg LLP
6.	10-04951	Picard v. Harold A. Thau	Milberg LLP
7.	10-05069	Picard v. Potamkin Family Foundation	Milberg LLP
8.	10-04576	Picard v. Norton A. Eisenberg	Milberg LLP
9.	10-05089	Picard v. John Denver Concerts, Inc., et al.	Milberg LLP
10.	10-05136	Picard v. Richard Roth	Milberg LLP
11.	10-05401	Picard v. Estate of Eleanor Myers a/k/a Eleanor Block a/k/a Lee Block, et al.	Milberg LLP
12.	10-04672	Picard v. Sidney Cole	Dentons LLP
13.	10-04415	Picard v. Barbara J. Berdon	Dentons LLP
14.	10-05209	Picard v. Lapin Children LLC	Dentons LLP
15.	10-04332	Picard v. Barry Weisfeld	Dentons LLP
16.	10-04861	Picard v. Harold J. Hein	Dentons LLP
17.	10-04540	Picard v. Jonathan Sobin	Seeger Weiss LLP
18.	10-04565	Picard v. Murray & Irene Pergament Foundation, Inc., et al.	Pryor Cashman LLP
19.	10-05239	Picard v. Robert Fried, et al.	Pryor Cashman LLP
20.	10-05397	Picard v. Bernard A. & Chris Marden Foundation Inc., et al.	Pryor Cashman LLP

21.	10-04592	Picard vs. Anthony E. Stefanelli	Delbello Donnellan Weingarten Wise & Wiederkehr, LLP
22.	10-04865	Picard v. Edward H. Kaplan, et al.	Arent Fox LLP
23.	10-04976	Picard v. Eleven Eighteen Limited Partnership, et al.	Arent Fox LLP
24.	10-05027	Picard v. 1776 K Street Associates Limited Partnership, et al.	Arent Fox LLP